



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

APR 03 2015

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

REPLY TO THE ATTENTION OF:

Saginaw Development LLC
c/o: Richard F. Menke, Jr, Owner
1281 Court Street
Clearwater, Florida 33756

SE-5J

Re: Additional Request for Information Pursuant to Section 104(e) of CERCLA
Baker Perkins Site, 1010 North Hess Avenue, Saginaw, Saginaw County, Michigan
Site Spill Identification Number: C51X

Dear Mr. Menke:

Thank you for responding to the U.S. Environmental Protection Agency's (EPA) request for information about and records of your financial resources and those of Saginaw Development, LLC ('Saginaw Development').

On February 24, 2015, EPA issued the information request to you and to Saginaw Development, pursuant to Section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ('CERCLA'), 42 U.S.C. § 9604(e). EPA has received your response and that of Saginaw Development. The Agency requested information and records because you and Saginaw Development asserted that you did not have the financial resources to pay the cost of the clean-up at the Baker Perkins Superfund Site that is located at 1010 North Hess Avenue, Saginaw, Michigan.

In addition to the information and records that you and Saginaw Development have already supplied, EPA requests that you complete the Forms 4506-T that are enclosed. Complete separate forms for you and for Saginaw Development. Instructions for completing Form 4506-T are on the reverse of the form.

Separately, EPA requests that Richard F. Menke, Jr., complete the enclosed Financial Data Request required for an Individual Ability to Pay Claim. Instructions are on the form.

Please complete the Forms 4506-T and the Individual Ability to Pay Claim and return the completed forms within 15 days of the date of your receipt of this letter. EPA will treat the Forms 4506T and the Individual Ability to Pay Claim that you complete and the tax returns as confidential information as provided in 40 C.F.R. 2.203(b).

The EPA makes this request of you and of Saginaw Development pursuant to Section 104(e) of CERCLA. This legal authority is summarized in Enclosure 1. Enclosure 2 is a summary of the requirements to assert a claim of confidentiality and how EPA will handle confidential information.

Failure to comply with the EPA's information request by fully, truthfully and timely responding to all items of that request, or adequately justifying such failure to respond, may subject you or Saginaw Development to an enforcement action seeking to compel compliance and collect penalties of up to \$37,500 per day of noncompliance pursuant to Section 104(e)(5) of CERCLA, 42 U.S.C. § 9604(e)(5) and as adjusted by 69 Fed. Reg. 7121-27 (Feb. 13, 2004) (codified at 40 C.F.R. § 19.4) pursuant to the Debt Collection Improvement Act of 1996. The EPA has the authority to use the information requested herein in an administrative, civil, or criminal action.

Within 15 days of receipt of this Information Request, return the completed Form 4506-T and Individual Ability to Pay Claim Form to

U.S. Environmental Protection Agency
Region 5, Superfund Division
Enforcement Compliance and Assurance Branch
Attn: Margaret Herring, Civil Investigator
77 West Jackson Boulevard SE-5J
Chicago, Illinois 60604-3590

If you have any legal questions regarding this matter, please contact Thomas Turner, Associate Regional Counsel, at 312-886-6613 or turner.thomas@epa.gov. All other questions should be directed to Margaret Herring, Civil Investigator, at 312-886-6239 or herring.margaret@epa.gov, or her supervisor, Carolyn Bohlen at 312-886-6541 or bohlen.carolyn@epa.gov.

We appreciate your assistance and look forward to your prompt response to this Information Request.

Sincerely,



Evette L. Jones, Acting Chief
Enforcement & Compliance Assurance Branch

Enclosures

1. Legal Authority
2. Confidential Business Information
Form 4506-T (two)
Financial Data Request

ENCLOSURE 1

DESCRIPTION OF LEGAL AUTHORITY

The Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601, *et seq.* (commonly referred to as CERCLA) gives EPA the authority to, among other things: 1) assess contaminated sites, 2) determine the threats to human health and the environment posed by each site; and 3) clean up those sites.

Under Section 104(e)(2) of CERCLA, 42 U.S.C. § 9604(e)(2), EPA has broad information gathering authority which allows EPA to require persons to furnish information or documents relating to:

- A. The identification, nature, and quantity of materials which have been or are generated, treated, stored, or disposed of at a vessel or facility, or transported to a vessel or facility;
- B. The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at/or from a vessel or facility; and
- C. The ability to pay the costs of the clean-up.

Compliance with this Information Request is mandatory. Failure to respond fully and truthfully to each question within this Information Request and within the prescribed time frame can result in an enforcement action by EPA pursuant to Section 104(e)(5) of CERCLA. This Section also authorizes an enforcement action with similar penalties if the recipient of the Request does not respond and does not justify the failure to respond. Other statutory provisions (18 U.S.C. § 1001) authorize criminal penalties if the responses contain false, fictitious or fraudulent statements. EPA has the authority to use the information requested in this Information Request in an administrative, civil or criminal action.

ENCLOSURE 2

CONFIDENTIAL BUSINESS INFORMATION

You may consider some of the information confidential that EPA is requesting. You cannot withhold information or records on that basis. The Code of Federal Regulations at 40 C.F.R. Part 2, Subpart B, requires that EPA affords you the opportunity to substantiate your claim of confidentiality before the Agency makes a final determination on the confidentiality of the information.

You may assert a business confidentiality claim covering all or part of the information requested in the manner described by 40 C.F.R. § 2.203(b). Information covered by such a claim will be disclosed by EPA only to the extent and only by means of the procedures set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when EPA receives it, the information may be made public by the Agency without further notice to you. Please read carefully these cited regulations, together with the standards set forth in Section 104(e)(7) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) because, as stated in Section 104(e)(7)(ii), certain categories of information are not properly the subject of a claim of confidential business information.

If you wish EPA to treat the information or record as “confidential,” you must advise EPA of that fact by following the procedures described below, including the requirement for supporting your claim for confidentiality. To assert a claim of confidentiality, you must specify which portions of the information or documents you consider confidential. Please identify the information or document that you consider confidential by page, paragraph and sentence. You must make a separate assertion of confidentiality for each response and each document that you consider confidential. Submit the portion of the response that you consider confidential in a separate, sealed envelope. Mark the envelope “confidential” and identify the number of the question to which it is the response.

For each assertion of confidentiality, identify:

1. The period of time for which you request that the Agency consider the information confidential, e.g., until a specific date or until the occurrence of a specific event;
2. The measures that you have taken to guard against disclosure of the information to others;
3. The extent to which the information has already been disclosed to others and the precautions that you have taken to ensure that no further disclosure occurs;
4. Whether EPA or any other federal agency has made a pertinent determination on the confidentiality of the information or document. If an agency has made such a determination, enclose a copy of that determination;
5. Whether disclosure of the information or document would be likely to result in substantial harmful effects to your competitive position. If you believe such harm would result from any disclosure,

explain the nature of the harmful effects, why such harm should be viewed as substantial, and the causal relationship between disclosure and the harmful effect. Include a description of how a competitor would use the information;

6. Whether you assert that the information is voluntarily submitted as defined by 40 C.F.R. § 2.201(l). If you make this assertion, explain how the disclosure would tend to lessen the ability of U.S. EPA to obtain similar information in the future;

7. Any information that you deem relevant to a determination of confidentiality.

Please note that pursuant to 40 C.F.R. § 2,208(e), the burden of substantiating confidentiality rests with you. EPA will give little or no weight to conclusory allegations. If you believe that facts and documents necessary to substantiate confidentiality are themselves confidential, please identify them as such so that EPA may maintain their confidentiality pursuant to 40 C.F.R. § 2.205 (8). If you do not identify this information and documents as confidential, your comments will be available to the public without further notice to you.

Request for Transcript of Tax Return

OMB No. 1545-1872

► Request may be rejected if the form is incomplete or illegible.

► For more information about Form 4506-T, visit www.irs.gov/form4506t.

Tip. Use Form 4506-T to order a transcript or other return information free of charge. See the product list below. You can quickly request transcripts by using our automated self-help service tools. Please visit us at IRS.gov and click on "Get Transcript of Your Tax Records" under "Tools" or call 1-800-908-9946. If you need a copy of your return, use **Form 4506, Request for Copy of Tax Return**. There is a fee to get a copy of your return.

1a Name shown on tax return. If a joint return, enter the name shown first.	1b First social security number on tax return, individual taxpayer identification number, or employer identification number (see instructions)
2a If a joint return, enter spouse's name shown on tax return.	2b Second social security number or individual taxpayer identification number if joint tax return

3 Current name, address (including apt., room, or suite no.), city, state, and ZIP code (see instructions)

4 Previous address shown on the last return filed if different from line 3 (see instructions)

5 If the transcript or tax information is to be mailed to a third party (such as a mortgage company), enter the third party's name, address, and telephone number.

USEPA 77 West Jackson Blvd. Chicago, IL 60604 Cyndie Mack-Smeltzer (312)353-9531

Caution. If the tax transcript is being mailed to a third party, ensure that you have filled in lines 6 through 9 before signing. Sign and date the form once you have filled in these lines. Completing these steps helps to protect your privacy. Once the IRS discloses your tax transcript to the third party listed on line 5, the IRS has no control over what the third party does with the information. If you would like to limit the third party's authority to disclose your transcript information, you can specify this limitation in your written agreement with the third party.

6 **Transcript requested.** Enter the tax form number here (1040, 1065, 1120, etc.) and check the appropriate box below. Enter only one tax form number per request. ►

- a** **Return Transcript**, which includes most of the line items of a tax return as filed with the IRS. A tax return transcript does not reflect changes made to the account after the return is processed. Transcripts are only available for the following returns: Form 1040 series, Form 1065, Form 1120, Form 1120A, Form 1120H, Form 1120L, and Form 1120S. Return transcripts are available for the current year and returns processed during the prior 3 processing years. Most requests will be processed within 10 business days ☒
- b** **Account Transcript**, which contains information on the financial status of the account, such as payments made on the account, penalty assessments, and adjustments made by you or the IRS after the return was filed. Return information is limited to items such as tax liability and estimated tax payments. Account transcripts are available for most returns. Most requests will be processed within 10 business days ☐
- c** **Record of Account**, which provides the most detailed information as it is a combination of the Return Transcript and the Account Transcript. Available for current year and 3 prior tax years. Most requests will be processed within 10 business days ☐
- 7** **Verification of Nonfiling**, which is proof from the IRS that you **did not** file a return for the year. Current year requests are only available after June 15th. There are no availability restrictions on prior year requests. Most requests will be processed within 10 business days ☒
- 8** **Form W-2, Form 1099 series, Form 1098 series, or Form 5498 series transcript.** The IRS can provide a transcript that includes data from these information returns. State or local information is not included with the Form W-2 information. The IRS may be able to provide this transcript information for up to 10 years. Information for the current year is generally not available until the year after it is filed with the IRS. For example, W-2 information for 2011, filed in 2012, will likely not be available from the IRS until 2013. If you need W-2 information for retirement purposes, you should contact the Social Security Administration at 1-800-772-1213. Most requests will be processed within 10 business days ☐

Caution. If you need a copy of Form W-2 or Form 1099, you should first contact the payer. To get a copy of the Form W-2 or Form 1099 filed with your return, you must use Form 4506 and request a copy of your return, which includes all attachments.

9 **Year or period requested.** Enter the ending date of the year or period, using the mm/dd/yyyy format. If you are requesting more than four years or periods, you must attach another Form 4506-T. For requests relating to quarterly tax returns, such as Form 941, you must enter each quarter or tax period separately. 12/31/2014 12/31/2013 12/31/2012 12/31/2011

Caution. Do not sign this form unless all applicable lines have been completed.

Signature of taxpayer(s). I declare that I am either the taxpayer whose name is shown on line 1a or 2a, or a person authorized to obtain the tax information requested. If the request applies to a joint return, at least one spouse must sign. If signed by a corporate officer, partner, guardian, tax matters partner, executor, receiver, administrator, trustee, or party other than the taxpayer, I certify that I have the authority to execute Form 4506-T on behalf of the taxpayer. **Note.** For transcripts being sent to a third party, this form must be received within 120 days of the signature date.

Sign Here		Phone number of taxpayer on line 1a or 2a
	Signature (see instructions)	Date
	Title (if line 1a above is a corporation, partnership, estate, or trust)	
	Spouse's signature	Date

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	Spouse's signature	Date	